IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWELFTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 530 of 2005

Between:

Smt.K. Padmavathi, W/o Sri K. Venkat Rao,
R/o H.No. 5-302 (New) (5-413-428 (old)), Mancherial

Municipality, Adilabad District.

..... PETITIONER

AND

Municipal Council, rep. by its Commissioner,
Mancherial Municipality, Mancherial, Adilabad District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a Writ, order or direction more particularly one in the nature of a Writ of Mandamus declaring the action of the respondent in issuing the property tax demand notice bearing No. 10990000012715, dated 7-11-2004 of the respondent in respect of premises belonging to the petitioner bearing No. 5-302, situated at Mancherial, Adilabad District at Rs. 42,200/- per annum from Rs. 9390/- per annum and demanding to pay an amount of Rs. 136872/- for the year ending 2004-05 without issuing any special notice for such enhancement in terms of Rule 4 (10)(11) of Schedule-II of A.P. Municipalities Act, 1965, as arbitrary and illegal and set aside the same and consequently direct the respondent to continue to collect the tax at Rs. 9390/-per annum.

For the Petitioner: Mr.S. Satyam Reddy, Advocate.

For the Respondent: Mr. Polisetty Radhakrishna, Standing Counsel.

The Court made the following:

ORDER: (per Sri B. Sudershan Reddy, J)

We have heard the learned counsel for the petitioner as well as the learned Standing Counsel for the respondent – Municipality.

The whole controversy in this writ petition centers around the question as to whether the respondent – Municipality served the special notice as is required in law before revising and enhancing the property tax payable in respect of the premises in question. The petitioner states that before issuing the demand notice, she was not served with the special notice as is required in law. In the counter affidavit filed by the respondent, it is asserted that attempts were made to serve the special notice in person on the petitioner. She refused and evaded to receive the same and the same was affixed in a conspicuous space. This assertion made by the Municipality is denied by the petitioner. Such disputed questions of fact cannot be gone into by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India.

The fact now remains that the special notice was sought to be served on the petitioner. In the circumstances, we direct the respondent – Municipality to serve a fresh copy of the special notice upon the petitioner and it shall be open to the petitioner to avail such remedies as may be available to her in law after receipt of the special notice to be now served by the Municipality upon the petitioner.

The Writ Petition is accordingly disposed of.

(B. Sudershan Reddy, J)

12-04-2005

(C.V. Ramulu, J)

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To

1. The Commissioner, Municipal Council,
   Mancherial Municipality, Mancherial, Adilabad District.

2. Two CD copies.